

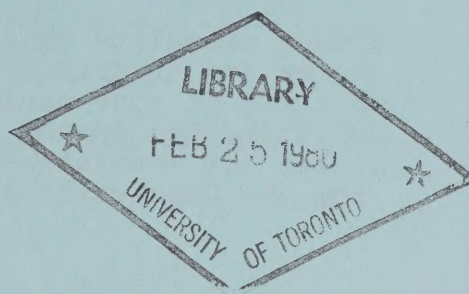
LOCAL GOVERNMENT *Div*

## BULLETIN 36

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**THE PROVINCIAL  
LEGISLATIVE PROCESS**

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Ontario Ministry of Intergovernmental Affairs

Hon. Thomas L. Wells  
MinisterD. W. Stevenson  
Deputy MinisterLocal Government Division  
Municipal Administration Branch

January 1980

To the Municipal Clerk:

Please circulate this bulletin or make copies for distribution to councillors or staff of your municipality who may be interested in the subject. Additional copies are available at a dollar each from the Publications Centre (see page 10).




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## INTRODUCTION

Local government is a constantly changing thing. New situations and conditions continuously require new approaches, and since local government operates only under the laws passed by the Legislative Assembly (and the federal Parliament, to a lesser extent) it follows that the law must also be constantly changing to meet the new situations.

This bulletin looks at the methods by which the law is changed. It examines the three types of Bill that are used in changing or adding to the Statutes. It also looks at the mechanisms established for exchanging information and points of view between municipal and provincial levels of government, and among ministries at the provincial level. While the examples used specifically refer to legislation such as The Municipal Act, similar mechanisms or less formal methods of exchange exist for most matters involving local government.

Material for this bulletin is drawn largely from speeches made by Hon. Thomas L. Wells, Minister of Intergovernmental Affairs, and George Ashe, former Parliamentary Assistant to the Minister of Intergovernmental Affairs.

This bulletin looks only at the process by which Bills move through the legislature. An examination of the Statutes is found in Bulletin No. 9 in this series, The Municipality and the Law.

No attempt is made to examine Orders in Council, Ministers Orders, or Regulations, all of which may be authorised by specific Acts.

Orders in Council are made by the Lieutenant Governor on the advice of the Cabinet. For example, section 565 (1) of The Municipal Act provides for the division of a provisional judicial district into tax-sale districts by order in Council. An example of a Minister's Order is to be found in section 32 (1) of The Planning Act, authorising the Minister of Housing to make orders in respect of zoning and subdivision control.

Many Acts are complemented by regulations that describe how activities allowable under the Act must be carried out. These regulations sometimes "extend" the law by setting out standards (for example, building standards).



## HOW THE LAW IS CHANGED

From time to time, people involved in local government come up against situations where the council finds that some existing legislative provision is not adequate for council's purposes. The legislation might prevent council from pursuing a course of action it considers desirable or it may require council to take action that the council believes is unnecessary in that specific municipality or situation.

Since municipal councils can operate only within the law as it exists, it follows that a new law or a change in the existing law will be required before council can follow through on the matter in the way it feels is most appropriate.

Changing the law is not a quick process. In any parliamentary democracy, all changes to statutes must be presented to the Legislative Assembly and be subject to full debate. Many proposed changes are also referred to committees of the Legislature for further debate. And even if the proposed change is passed by the Legislature, it does not become law until it has been given Royal Assent. It is then an Act and may come into force immediately, or upon a date either specified in the Act or proclaimed later by the Lieutenant Governor.

The difference between a proposal to change the law and the actual law is exemplified in the fact that, while before the Legislature, the proposal is referred to as a Bill. After passing the Legislature, it becomes an Act and a regular part of the Statutes. The existence of a Bill cannot be taken as authority to act since authority comes only from Acts or Regulations passed under the Acts.

There are three different ways in which to get legislation through the Legislature. Each method is useful in specific circumstances, and municipalities will have to decide which is appropriate in the given situation.

### Government Bills

#### The Request

The first option is to seek public legislation - often an amendment to an existing Statute, such



as The Municipal Act. This involves working with the government, either directly through a particular minister, or indirectly through a municipal association that will deal with a minister.

Any requests for amendment or other changes to legislation should be accompanied by as much background information as possible. This would likely include details of the problem faced by council; approaches to the problem already tried; and weaknesses in the existing legislative provisions.

Such requests require a considerable amount of time. Since the Legislature normally meets twice a year, each ministry thinks in terms of packages of legislative proposals for Spring and Fall. A request that came in while the Legislature was sitting would likely not be considered until the following season.

#### Municipal Consultation

It is important also to remember that since all public law is generally binding on all municipalities and the agencies that interact with them, all interested parties must be given an opportunity to discuss the proposed changes and to determine how they will be affected. While unanimity on any specific issue is unlikely to be achieved, a clear consensus is always desirable.

One of the methods of consultation used in discussing changes to legislation is the Municipal Liaison Committee. This body is composed of members of the various municipal political associations. When the M.L.C. meets officially with ministers of the Government, it is known as the Provincial-Municipal Liaison Committee (P.M.L.C.).

Often requests for changes to legislation will come from individual municipalities to a meeting of an association. If the association agrees with the proposed change, it will usually forward the proposal to other associations for comment.

The proposal will likely then be taken to an annual meeting of an association where open debate by all members is possible. A clear consensus of members could then forward it to the M.L.C. and then to the P.M.L.C. This same



process can also be used in reverse for changes in legislation proposed by the government. The proposals are often taken to the P.M.L.C., which in turn distributes the proposal to its member associations for consideration.

It is also important to remember that, while a Bill might be perfectly acceptable to one element of municipal government, or to one ministry, another part of local government or another ministry might find it to have serious flaws or to be unworkable.

To illustrate the consultative process, consider a request for an amendment to one of the roads provisions in The Municipal Act. Once the Ministry of Intergovernmental Affairs receives the request and decides that it should be studied further, it would acknowledge the request and, since it concerns roads, forward a copy to the Minister of Transportation and Communications for comment. That Minister might consult with staff members and an advisory committee consisting of members of the Ontario Traffic Council as well as staff of MTC.

#### Ministry Consultation

Staff of the MIA would also review the proposal, and might consult informally with MTC staff, with the municipality and municipal association submitting the request, and perhaps with a few municipal solicitors. A submission would be prepared by staff for the consideration of the Minister and his Parliamentary Assistant, who would make a decision as to whether the proposed amendment should go ahead, based on staff advice and the reaction from MTC. If the proposal called for a major policy change, it might then be submitted to a Cabinet Committee, after which it would go to the full Cabinet for approval.

If the proposal contained implications for provincial expenditures, it would be directed to the Management Board of Cabinet before being reported to the Cabinet.

#### Drafting the Legislation

Once the necessary approval in principle has been given, the Ministry of Intergovernmental Affairs' Legal Services staff would draft the necessary legislation in consultation with the



Legislative Counsel (an officer in the Ministry of the Attorney General who is responsible for the final drafting of Bills) and with the policy advisers in the Ministry. Either the Minister or his Parliamentary Assistant would then take the draft legislation for approval to the Cabinet Legislation Committee. The draft legislation will subsequently be reported to the full Cabinet for approval or rejection, and then submitted to the caucus of Government members for any final discussion.

### First Reading

At about this time, before the introduction of the proposed legislation into the Legislature, the Ministry informs the members of the Municipal Liaison Committee of the subjects that are to be dealt with in the amendments for the coming session. As soon as the legislation is introduced by the Minister of Intergovernmental Affairs and given first reading by the Legislature, copies of the Bill and the Minister's statement are sent to the MLC and to all municipal associations. Notice is given in the Ministry's publication, Background, and copies may be mailed to every municipality. The Government attempts to leave as much time as possible between first and second readings for the submission and consideration of comments. On some occasions, this is not possible. During this gap, the Municipal Liaison Committee and individual municipalities prepare and present comments on the proposed legislation to the Minister.

### Second Reading

Following this period, the principles of the Bill are debated by the Legislature and, if there is sufficient support from the members, the Bill is given second reading. It is usually then debated in detail by the Legislature meeting as the Committee of the Whole Legislature, or by a standing or select committee. At this stage every clause may be examined. Individuals (or municipalities) have the right to appear before standing or select committees to speak on the Bill. It is also common for individuals or municipalities to write to their M.L.A. or a member of the committee involved to make known their views on the Bill or any of its parts.



If the MLC or a municipality has made a good suggestion for a revision, the Minister or his Parliamentary Assistant will introduce a motion at this stage to introduce the desired change. The opposition parties also have an opportunity to seek changes to the Bill.

### Third Reading and Royal Assent

When this detailed examination is completed, the Bill is given third reading without further debate, and is subsequently given Royal Assent by the Lieutenant Governor. It is then an Act. An Act or some of its sections may come into force when it receives Royal Assent, on a particular date named in the Act, or on a date proclaimed by the Lieutenant Governor. Notice is again given in Background, and copies of the final version of the new statute are sent to the MLC and the municipal associations.

### Private Bills<sup>1</sup>

The second option is to apply for a Private Bill. Not to be confused with the Private Members' Bill, the Private Bill can be put forward, for example, by a municipality, local board, or charitable organization to achieve a specific legislative goal for itself. Examples include the Lincoln County Board of Education, which successfully sought a change in its system of representation; the County of Wellington and City of Guelph, with other sponsoring bodies, which successfully sought the authority to jointly establish a community art centre; and the Town of Exeter, which successfully sought to repeal an 1889 Private Act providing for a fixed mill rate for general purposes on certain farm lands in the municipality.

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<sup>1</sup> For a more thorough examination of the Standing Orders governing the submission of Private Bills, see The Ontario Gazette. A copy of the complete Standing Orders is available through the Office of the Clerk of the Legislature, Room 104, Legislative Building, Queen's Park, Toronto, Ontario.



If your council believes it has a problem that private legislation would help solve, it can prepare draft legislation and submit this proposed Private Bill to the Clerk of the Legislature, along with a fee of \$150. The municipality will also be responsible for paying the costs of printing the Bill and will be required to advertise the proposed Bill once a week for four weeks in a local newspaper and in The Ontario Gazette.

When these requirements have been met, the Bill can be introduced into the Legislature for first reading by your local Member of the Legislative Assembly. It is then referred to one of the standing committees, probably the General Government Committee or the Administration of Justice Committee. A hearing is held on the Bill by the committee, to which representatives of your council and all interested parties are invited. If the committee reports favourably on the Bill, with or without amendments, it goes back to the Legislature for second and third readings, usually without further debate. If, however, the committee opposes the Bill, it is defeated and does not go back to the Legislature for further debate.

Every proposed Private Bill is reviewed by the Government. The Minister of Intergovernmental Affairs receives a copy of every Private Bill submitted by municipalities, and sends a copy to every Cabinet Minister asking for comments. The Minister put his views together with those of the other ministries so that he or his Parliamentary Assistant is able to present a unified government position on each Bill when it is debated by committee.

The Government sometimes finds it necessary to oppose a Private Bill at a committee hearing, usually when a municipality seeks special powers for itself that are either inconsistent with the powers extended to other municipalities or that are in conflict with an existing policy of the government. In these cases the Minister or the Parliamentary Assistant expresses the government's concerns and attempts to persuade the committee members to either amend or defeat the Bill. Even if this is unsuccessful and the Bill is reported favourably by the committee, the government can prevent its enactment, if it strongly opposed it, by not calling it for a second or third reading. A municipality that used a Private Bill as a method of trying to circumvent long-standing government policy, as an example, would probably find that the government would not call the Bill

for third reading.

The Private Bill is most often used when the provisions it contains will not reflect on other municipalities - when they are so specific as to relate only to the municipality that proposed it.

### Private Members' Bills

The third option is to approach your local M.L.A., if he is not a member of the cabinet, and ask him to introduce a Private Member's Bill to make the changes sought by your council. This is, however, not the most effective method.

Under the present procedures of the Legislature, although there is no limit on the right of M.L.A.'s to introduce such bills, only two Private Members' Bills or Resolutions are debated each week. This means that very few get past first reading.

The Clerk of the Legislature determines which Bills are to be debated by drawing names in each party caucus, with each party getting an equal number.

If your M.L.A. is fortunate enough to have the Bill debated it cannot be voted on if twenty members stand to indicate their opposition, or if one-third of the Members file a petition objecting to a vote with the Speaker not later than 48 hours before the debate. Even if the Bill is voted on and is given second reading, it is still extremely unlikely that it will be called by the Government House Leader for third and final reading.

As a result, Private Members' Bills are almost never enacted. Their real usefulness is in drawing attention of the Members of the Legislature and the public to a particular issue of public policy. If there appears to be sufficient support for taking action on the issue, the Government may incorporate the purpose of the Private Member's Bill into a Government Bill which has a much greater likelihood of being enacted. An example of this is The Road Access Act, 1978 that was enacted a year ago to prevent arbitrary closing of certain types of roads. It was based on a Private Member's Bill introduced and debated during the previous year and which was strongly supported by members of the Legislature at that time.



## CONCLUSION

While the process of changing legislation may seem involved and time-consuming, scores of changes are approved every time the Legislature is in session. The changes range from one or two words within a clause to completely new Acts.

The legislative process and the consultative processes that have grown up around it are intended to insure that the best possible law is enacted and that every opportunity for debate and amendment is given to all the concerned parties.





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